

ESTTA Tracking number: **ESTTA53026**

Filing date: **11/11/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Mintek Corporation
Granted to Date of previous extension	11/12/2005
Address	1022 Main St, Unit A Dunedin, FL 34698 UNITED STATES

Attorney information	Thomas E. Toner 15950 Bay Vista Drive; Suite 220 Clearwater, FL 33760 UNITED STATES tom.toner@smithhopen.com Phone:(727) 507-8558
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Applicant Information

Application No	78490643	Publication date	09/13/2005
Opposition Filing Date	11/11/2005	Opposition Period Ends	11/12/2005
International Registration No.	NONE	International Registration Date	NONE

Applicant	Samuel Bouter Suite 260 9049 Commercial St New Minas, NS, B4N 5A4 CANADA
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Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Computer software designed to manage a business' customers, known as customer relationship management or CRM software, by keeping track of their interactions with the business and providing reports and reminders to the sales team and management; product and billing management, known as point-of-sale or POS software, e-commerce, and electronic client invoicing, designed to allow a business through the complete retail cycle of listing, selling, invoicing, payment collection, and shipping of products both on Internet and a traditional retail outlet; notification software to e-mail or phone a client letting them know a product or service they subscribe to is ready or available
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Attachments	Notice of Opposition.pdf (3 pages)
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Signature	/thomas e toner/
Name	Thomas E. Toner
Date	11/11/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. : **78/490,643**
For the Mark : **MINATEK**
Filed : **September 28, 2004**
Published in the Trademark
Official Gazette on : **September 13, 2005**

Mintek Corporation

Opposer,

v.

**Samuel Bouter,
D.B.A. Minatek Solutions**

Opposition No. _____

Applicant.

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

NOTICE OF OPPOSITION

Mintek Corporation
(a Florida corporation)
Unit A, 1022 Main Street
Dunedin, Florida 34698

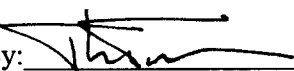
Sir:

The above-identified opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

GROUND FOR OPPOSITION

- (1) Opposer is the owner of U.S. Trademark Serial No. 78/507,466 for MINTEK, for use in conjunction computer software development for integrating mobile devices, billings systems and other databases in the cable and hospitality industries.
- (2) Applicant is owner of U.S. Trademark Serial No. 78/490, 643 for MINATEK for use in conjunction with computer software designed to manage a business' customers, known as customer relationship management or CRM software, by keeping track of their interactions with the business and providing reports and reminders to the sales team and management; product and billing management, known as point-of-sale or POS software, e-commerce, and electronic client invoicing, designed to allow a business through the complete retail cycle of listing, selling, invoicing, payment collection, and shipping of products both on Internet and a traditional retail outlet; notification software to e-mail or phone a client letting them know a product or service they subscribe to is ready or available.
- (3) Opposer became aware of Applicant's use of the mark MINATEK upon receiving a Notice of Suspension for Opposer's mark pending the disposition of Applicant's mark.
- (4) Both Opposer and Applicant's use the marks in association with similar computer software. The marks and goods are substantially identical. Therefore, confusion is likely.
- (5) Opposer will further be harmed should a well-informed trademark attorney refuse registration of U.S. Trademark Application Serial No. 78/507,466 for Opposer's mark based on the earlier filed U.S. Trademark Application Serial No. 78/490,643.
- (6) Opposer has been using the mark in commerce as early as November 30, 1985 and will be harmed by the registration of Applicant's mark as it is nearly identical to Opposer's mark.
- (7) Opposer is the senior user of the mark in association with computer software.

Very respectfully,
SMITH & HOPEN, P.A.

By: 

Thomas E. Toner
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(727) 507-8558
Attorneys for Applicant